



March 12, 2021

By e-mail

Re: Lānaʻi Planning Commission's request for a status on the 20-acre Miki Basin CPR Heavy Industrial Project (CIZ 2008/0003) (Ordinance 2895 (Bill No. 79)) for TMK (2) 4-9-002:061 (POR) formerly (2) 4-9-002:001 (POR)

Dear Mr. Jordan Hart:

Pūlama Lānaʻi ("PL") is confirming that we will be available at the next Lānaʻi Planning Commission ("LPC") meeting on April 21, 2021.

Herein we include the following:

**Exhibit A:** Summary of efforts by Pūlama Lānaʻi to provide the Commissioners with a status update on the 20-acre Miki Basin CPR Heavy Industrial Project ("Miki 20")

**Exhibit B:** Written response on the five items that you requested in your letter to me dated February 22, 2021.

Should you want to meet to discuss the items provided herein prior to the April 2021 LPC meeting, please contact Keiki-Pua Dancil (via email [kdancil@pulamalanai.com](mailto:kdancil@pulamalanai.com)) to arrange a meeting. We appreciate the opportunity to provide information on the Miki 20 Project.

Sincerely,

Kurt Matsumoto  
Kurt Matsumoto (Mar 13, 2021 08:11 HST)

Kurt Matsumoto,  
Chief Operating Officer

Cc: Michele McLean, AICP, Planning Director (email w/attachments)  
Clayton Yoshida, Planning Program Administrator (email w/attachments)  
Richelle Thomson, First Deputy, Corporation Counsel (email w/attachments)

**Exhibit A**

**Summary of efforts by Pūlama Lānaʻi to provide the Commissioners with a status update on the 20-acre Miki Basin Project (“Miki 20”)**

- At the LPC meeting on November 18, 2020 Commissioner Kaye requested a status update on Miki 20.<sup>1</sup> Chair Preza then asked Director McLean whether that was something that she could provide.<sup>2</sup> Following confirmation from Director McLean, Chair Preza requested that Ms. Ramoran-Quemado add the item to the next agenda.<sup>3</sup> Pūlama Lānaʻi (“PL”) was in attendance via the BlueJeans platform.
- On November 19, 2020, Deputy Director Hart sent an email to Keiki-Pua Dancil asking for assistance to provide an update on Miki 20. The same day, Keiki-Pua Dancil responded to the email, confirming that PL could assist and provide an update.
- On December 2, 2020, Keiki-Pua Dancil sent an email to Deputy Director Hart requesting a phone call to discuss the format on how the update will be presented. A call was scheduled for December 3, 2020.
- During the phone meeting on December 3, 2020 it was agreed that PL would be in attendance at the next meeting to provide an update and answer questions.
  - The December 16, 2020 LPC meeting was cancelled.<sup>4</sup>
- At the January 20, 2021 LPC meeting, PL was in attendance and anticipated providing an update for Miki 20, as it was listed as Item E3 on the agenda.
  - After inquiry from Chair Preza, Deputy Director Hart requested that the item be moved to the next month, he did not realize that the item was on the agenda.<sup>5</sup>
- On February 3, 2021, Deputy Director Hart emailed Keiki-Pua Dancil requesting an update on the Miki 20 project.
  - Following up on February 7, 2021 via email, Keiki-Pua Dancil provided a summary of the update that was prepared for the January 20, 2021 LPC meeting. The contents of the update that was sent in the email is provided herein as Exhibit A-1.
  - On February 8, 2021 there were several emails between Keiki-Pua Dancil and Deputy Directory Hart asking for clarifications regarding the summary provided (Exhibit A-1).
- At the February 17, 2021 LPC meeting, PL was in attendance and anticipated providing an update for Miki 20, as it was listed as Item C2 on the agenda.<sup>6</sup>
  - Deputy Director Hart provided a summary and did not call on PL to provide a status on Miki 20 as previously contemplated in the phone conversation on December 3, 2020.

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<sup>1</sup> See meeting minutes of LPC meeting on November 18, 2020 at page 11.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Memo from Director McLean to LPC members dated December 8, 2020.

<https://www.mauicounty.gov/ArchiveCenter/ViewFile/Item/27827>.

<sup>5</sup> See meeting minutes of LPC meeting on January 20, 2021 at page 49.

<sup>6</sup> See meeting minutes of LPC meeting on February 17, 2021 at page 23.

- On March 5, 2021<sup>7</sup> PL received a scanned email copy of a letter sent via US Postal Service from Deputy Director Hart to Kurt Matsumoto extending an invitation to him and his organization to meet with the LPC to address their concerns and inquires at the next LPC meeting on March 17, 2021 and to provide a written response by March 4, 2021 on five specific items:
  1. List of remaining land use and construction approvals needed for the completion of development with any pending application numbers.
  2. Other notable processes that will need to be completed.
  3. Estimated completion of each of the items above.
  4. Estimated date of first offering.
  5. Statement of the current use of the property.
- On March 5, 2021, Keiki-Pua Dancil sent an email to Deputy Director Hart confirming that PL will be in attendance at the next LPC meeting and that a written response would be provided in the next week.

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<sup>7</sup> Due to the COVID pandemic, our Honolulu office personnel are working remotely, and as such, receipt of US Postal Service mail is delayed. The letter dated February 22, 2021, from the Department of Planning, was not received until March 5, 2021 via a scanned email copy from PL staff.

**Exhibit A-1**

**PL response provided via email dated February 7, 2021 to Deputy Director Hart**

We own a twenty (20) acre lot of land identified on the attached subdivision map as Lot 13-A-1-A-2 (and also referred to as "**Lot 2**"). See Figure 1 and Figure 2 for map and details of map, respectively.

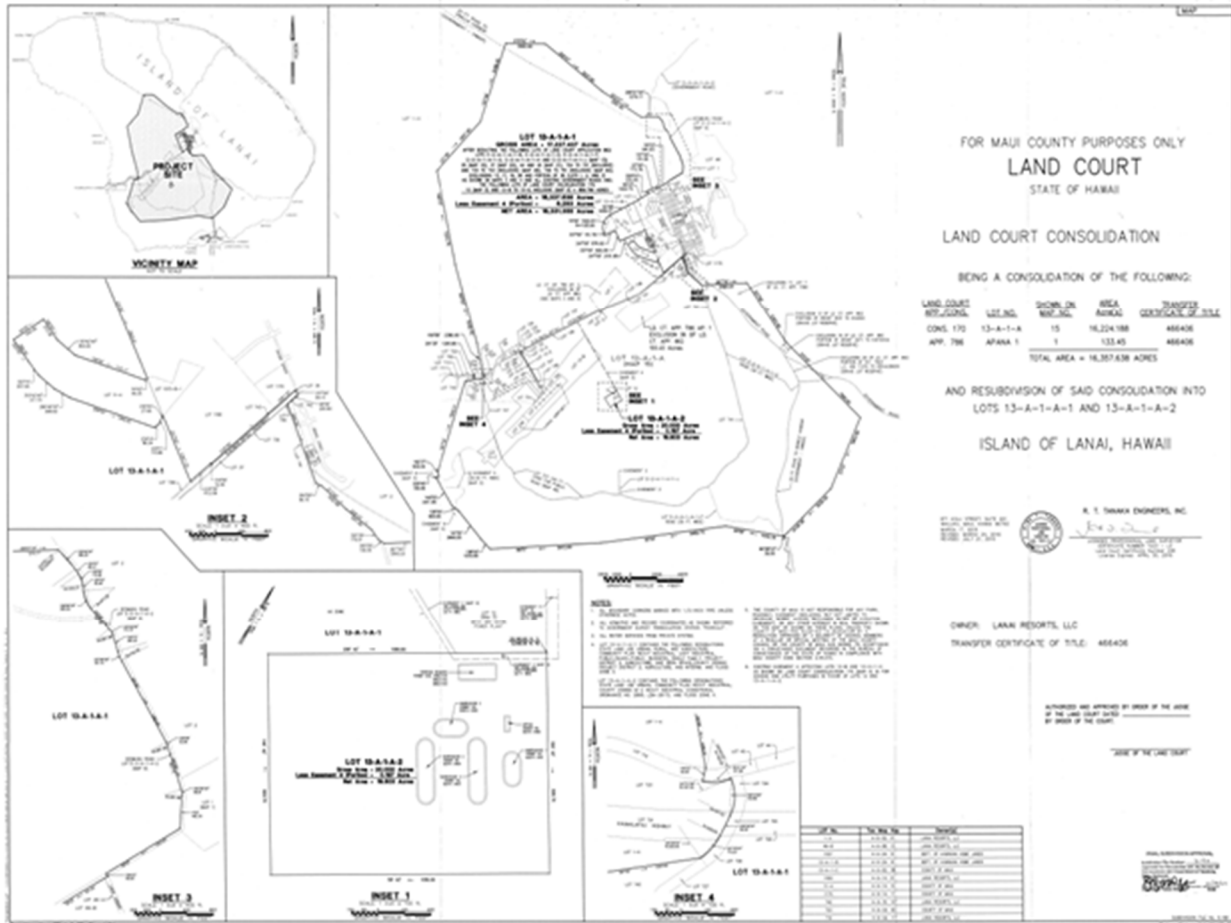


Figure 1: Land Court Consolidation Map of interest inset 1.

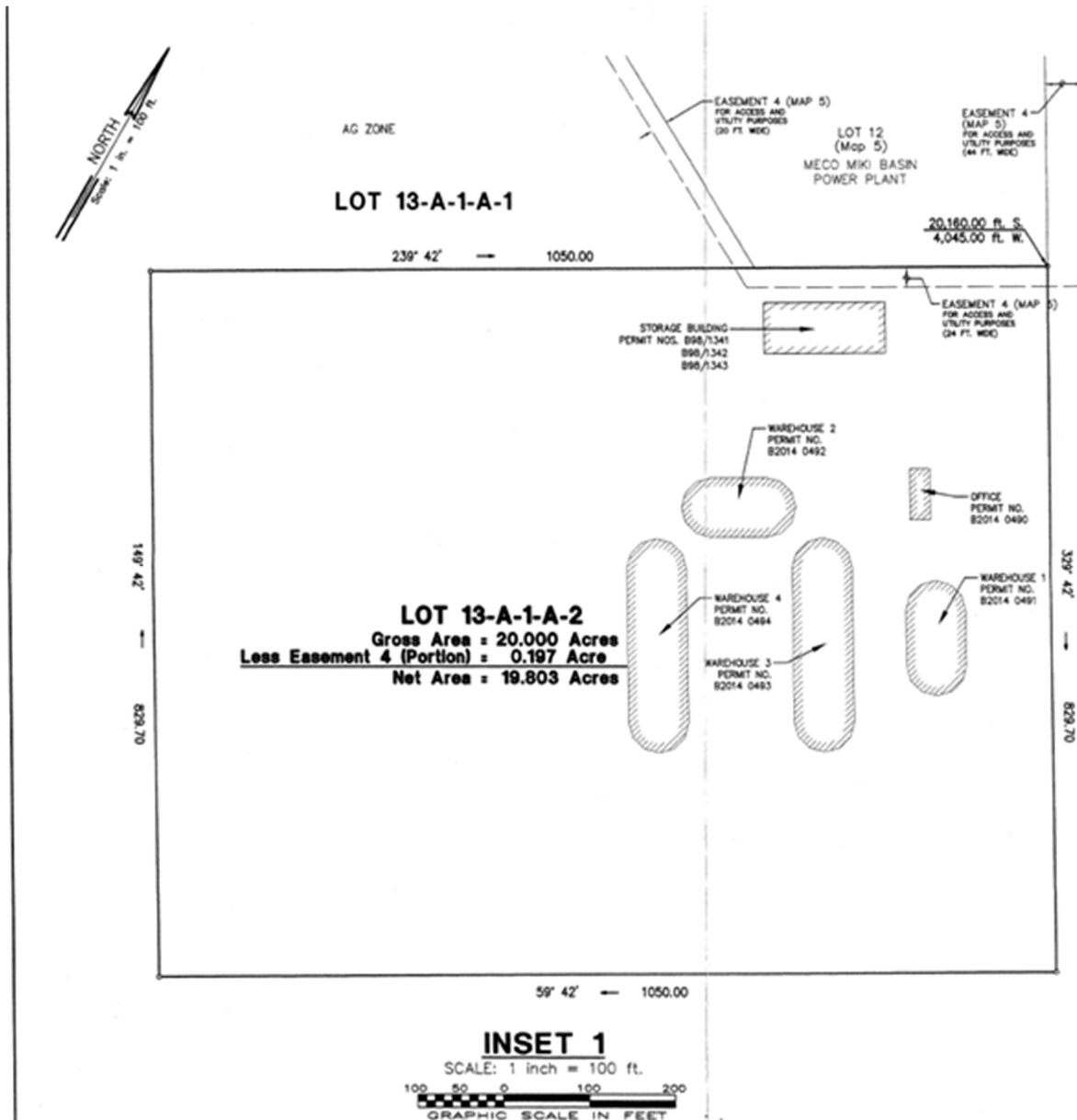


Figure 2: Inset 1 of Figure 1, showing detailed view of Lot 13-A-1-A-2

We intend to submit Lot 2 to a condominium property regime to be known as the Miki Basin Industrial Park (the “**Project**”) and market and sell the units within this Project. Our efforts to market and sell units within the Project has been significantly delayed, and before we can commence these efforts, the subdivision of Lot 2 needs to be approved and recognized by the Land Court of the State of Hawaii (the “**Land Court**”).

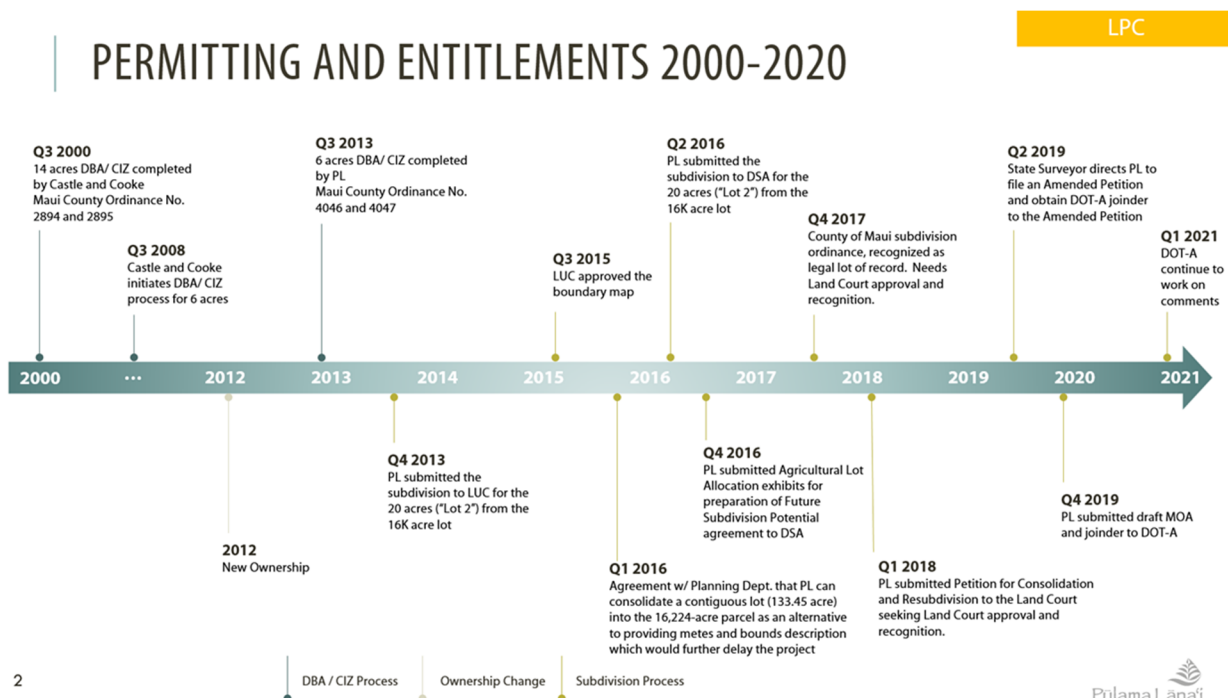
Lot 2 was legally subdivided on October 31, 2017 in accordance with the County of Maui’s subdivision ordinance and is recognized by the County of Maui as a legal lot of record. However, because Lot 2 is part of land registered with the Land Court, the subdivision of Lot 2 also needs to be approved and recognized by the Land Court following the County of Maui’s approval. Approval and recognition of the subdivision by the Land Court is a pre-requisite for the creation of the Project and the marketing and sale of units within the Project.

On March 29, 2018, we submitted a Petition for Consolidation and Resubdivision (the “**Original Petition**”) to the Land Court seeking Land Court’s approval and recognition of the subdivision of Lot 2. The Land Court referred our Original Petition to the State Land Surveyor’s office, and the State Land Surveyor issued its comments to the Original Petition in the Return of State Land Surveyor dated April 17, 2019 (the “**Surveyor’s Return**”). The Surveyor’s Return requires, among other things, that we file an Amended and Restated Petition for Consolidation and Resubdivision (the “**Amended Petition**”) and obtain DOT’s joinder to the Amended Petition. DOT’s joinder is necessary because access from Lot 2 to a public road is over Easement 4, which runs in part through a portion of the Lāna’i Airport Property.

Following receipt of the Surveyor’s Return, we prepared the Amended Petition and contacted DOT in early June 2019 to seek its joinder to the Amended Petition. As a condition to DOT’s agreement to execute a joinder to the Amended Petition, DOT requested that certain agreements and understandings of DOT and us with respect to Easement 4 be documented in a memorandum of agreement. After extended negotiations to refine the parties’ agreements and understandings with respect to Easement 4, we prepared a memorandum of agreement as requested by DOT and this memorandum of agreement was provided to DOT for review and comment on October 7, 2019.

On November 19, 2020, Maui County Planning Department Deputy Director Hart requested an update on the memorandum of agreement, as such we reached out to DOT for an update the same day. On November 20, 2020, DOT informed Pūlama Lāna’i that the matter is being reviewed by their Deputy Attorney General (AG). Once the AG approves the DOT comments on the memorandum of agreement, DOT will send the comments to us for review.

History indicates, the process to get Lot 2 subdivided has been very protracted. The above history doesn’t cover the entitlement (zone changes) and subdivision approval process from the County of Maui, which was also a lengthy process. The drawn-out nature of this process has resulted in significant delays in the creation of the Project and our ability to market and sell the units within the Project. Because users of the Project will not want to invest significant funds into the property until they are able to buy their units, this protracted process has also delayed the full use of the Project as originally contemplated when Lot 2 was reclassified for industrial use. It is almost impossible to provide an estimated date on when the first offering will take place, as evidenced by the history predicting when the Land Court and DOT will take action has been a challenge.



**Exhibit B**

Land use and construction approvals needed for completion of development	Application number	Estimated completion	Status or notes for future necessary steps
<u>County Subdivision Approval</u>  <i>Agency:</i> Department of Public Works, County of Maui	Subdivision File Number 6.180	October 31, 2017	<ul style="list-style-type: none"> <li>Completed. The County of Maui approved the subdivision of the 20 acre Miki 20 property in October 2017.</li> <li>However, because the Miki 20 project land is registered in Land Court, the County approved subdivision map must also be approved by the Land Court.</li> </ul>
<u>Grading Permit</u>  <i>Agency:</i> Department of Public Works, County of Maui	G20160047 and G20160048	2021	<ul style="list-style-type: none"> <li>Grading permit was issued on March 15, 2016 for the 20 acre parcel</li> <li>Majority of the work was completed in 2018</li> <li>Remaining work to be completed in 2021</li> </ul>
<u>HDOTA MOA</u>  <i>Agency:</i> Department of Transportation, State of Hawaii (Airports Division)	N/A	Difficult to estimate given the protracted processing to date.	<ul style="list-style-type: none"> <li>Access to Miki 20 is over Easement 4, a portion of which is located on the Lānaʻi Airport property managed by HDOTA.</li> <li>Therefore, HDOTA is required to join the Land Court subdivision petition for the Miki 20 property.</li> <li>HDOTA requires that the parties enter into an MOA with respect to Easement 4 before HDOTA will join the Land Court subdivision petition.</li> <li>Form of MOA submitted to HDOTA in October 2019.</li> <li>Check in periodically, last check in March 6, 2021.</li> <li>Email update from HDOTA (Elaine Brown, Land Agent) provided on March 9, 2021:               <ul style="list-style-type: none"> <li>Director of HDOTA has preliminarily approved executing the Joinder subject to the execution of the right-of-entry and MOA.</li> <li>The Deputy Attorney General is close to completing his review of these documents. The prolonged delay of this legal review resulted from an increased shortage of legal staffing in the Department and the Attorney General, a slow recruitment process to fill these positions, and the</li> </ul> </li> </ul>

Land use and construction approvals needed for completion of development	Application number	Estimated completion	Status or notes for future necessary steps
			<p>onset of Covid-19 that caused high priority legal reviews of Covid-19 exemptions.</p> <ul style="list-style-type: none"> <li>○ After the legal review of these documents, DOT will request the Board of Land and Natural Resources' approval of granting a right-of entry for Miki Road.</li> </ul>
<p><u>Land Court Subdivision Approval</u></p> <p><i>Agency:</i> Land Court, State of Hawaii, and Department of Accounting and General Services, State of Hawaii (Land Survey Division)</p>	<p>Land Court Consolidation No. 231</p>	<p>60 days after execution of HDOTA MOA referenced above</p>	<ul style="list-style-type: none"> <li>• Initial subdivision petition submitted to Land Court in March 2018.</li> <li>• Comments on initial subdivision petition received from Land Court in April 2019.</li> <li>• Land Court requires a restated subdivision to be submitted with HDOTA signing/joining the restated subdivision petition.</li> <li>• Once HDOTA MOA with respect to Easement 4 is approved, HDOTA will sign/join our restated subdivision petition.</li> <li>• Once HDOTA joins our restated subdivision petition, it can be resubmitted to Land Court for final approval.</li> </ul>
<p><u>Condominium Property Regime (CPR) Documents</u></p> <p><i>Agency:</i> None</p>	<p>N/A</p>	<p>30 days after receipt of Land Court Subdivision Approval</p>	<ul style="list-style-type: none"> <li>• Draft CPR documents have been prepared, but still need to be recorded in Land Court.</li> <li>• Land Court subdivision approval needs to be completed before the CPR documents can be recorded.</li> </ul>
<p><u>Developer's Public Report</u></p> <p><i>Agency:</i> Department of Commerce and Consumer Affairs, State of Hawaii (Real Estate Commission/Real Estate Branch)</p>	<p>N/A</p>	<p>90 days after recordation of CPR Documents</p>	<ul style="list-style-type: none"> <li>• Once the CPR documents are recorded, Developer must file a Developer's Public Report to disclose pertinent information regarding the project to prospective purchasers.</li> <li>• An "Effective Date" for the Developer's Public Report must be issued by the Real Estate Commission before units can be sold.</li> </ul>



Land use and construction approvals needed for completion of development	Application number	Estimated completion	Status or notes for future necessary steps
<u>Property available for Sale</u>  <i>Agency: None</i>	N/A	Upon issuance of an effective date for the Developer's Public Report	<ul style="list-style-type: none"><li>• Market and Sell units</li></ul>

## Statement of current use of the property

Figure 1 provides an overview of the layout of Miki 20, which is identified on the map as “Inset 1.” When the map was submitted there were former uses already on the subject parcel as noted by the identification of each and subsequent permit numbers.

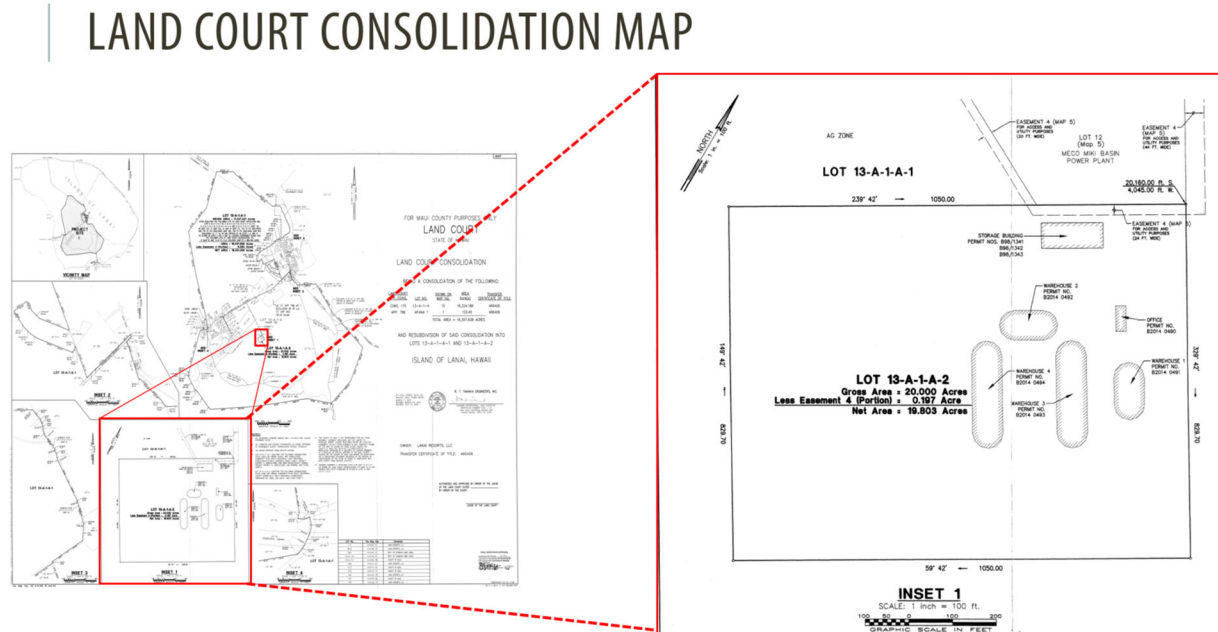


Figure 1: Land Court Consolidation Map (left graphic) and an expanded view of Lot 13-A-1-A, Miki 20.

Currently Pūlama Lānaʻi (8 acres) and other tenants (2 acres) utilize the property, see Figure 2. Pūlama Lānaʻi uses include warehouses to support operations and rock and concrete plant. Tenant uses include storage of materials and base for on-island operations. There are currently 10 acres that are unoccupied and not developed.

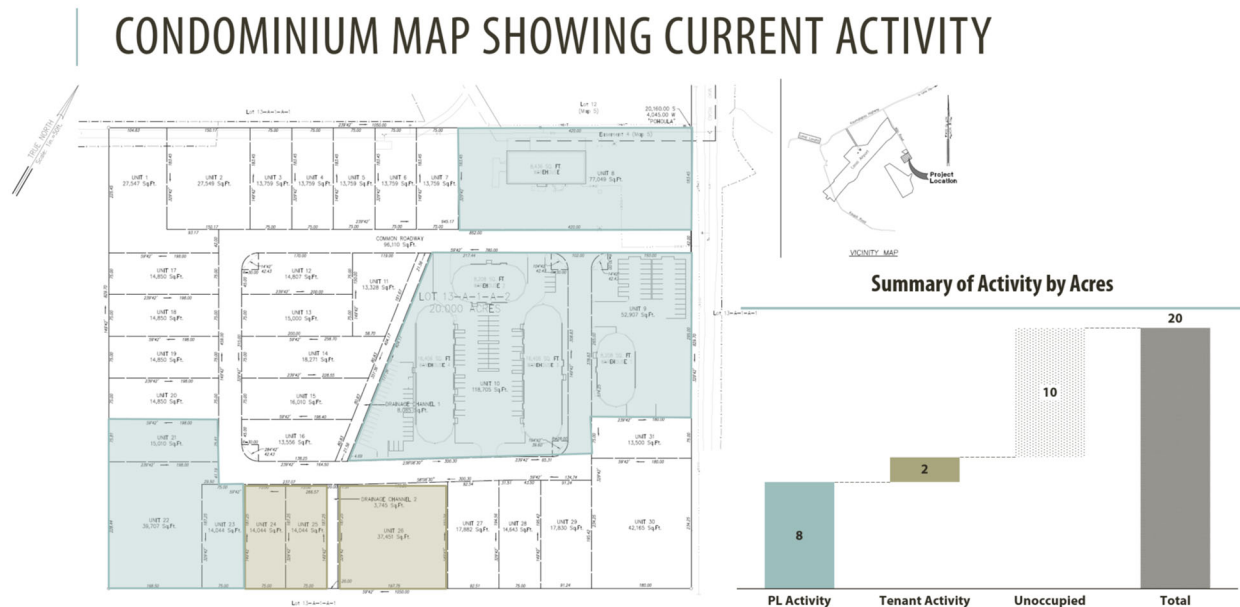


Figure 2: Condominium map showing current activity and summarized by acreage in bar chart to the right.

# Pulama Lana'i - Miki Basin - Letter to Planning for LPC 12MAR21 vF

Final Audit Report

2021-03-13

Created:	2021-03-13
By:	Keiki-Pua Dancil (kdancil@pulamalanai.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAUBi81JvsgD4Im900XHjIRLrNnCzQWiOi

## "Pulama Lana'i - Miki Basin - Letter to Planning for LPC 12MAR21 vF" History



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